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PROPOSED REVISIONS TO THE MEDIUM-TERM PLAN FOR THE PERIOD 1992-1997

MAJOR PROGRAMME IV. INTERNATIONAL COOPERATION FOR DEVELOPMENT

Programme 23. Transnational corporations

1. The preparation, format and content of the medium-term plan and its revisions are governed by the Regulations and Rules Governing Programme Planning, the Programme Aspects of the Budget, the Monitoring of Implementation and the Methods of Evaluation.

2. Regulation 3.11 provides, inter alia, that the medium-term plan shall be revised as necessary every two years to incorporate required programme changes and that the proposed revisions shall be as detailed as required to incorporate the programme implications of the resolutions and decisions adopted by the intergovernmental organs or international conferences since the adoption of the plan.

3. The revised programme 23, Transnational corporations, submitted below replaces the narrative of programme 23 of the medium-term plan for the period 1992-1997, which was adopted by the General Assembly in its resolution 45/253 of 21 December 1990 and subsequently revised by the Assembly in its resolution 47/214 of 23 December 1992 and issued in document A/47/6/Rev.1 and Corr.1. The proposed revisions reflect programmatic and organizational changes arising from the restructuring of the economic and social sectors approved by the General Assembly in its resolution 47/212 B of 6 May 1993. The revisions also reflect the review of its work programme by the Commission on Transnational Corporations at its twentieth session, broadening the focus of international investment and transnational corporations, and providing new orientations in an integrated manner. This adjustment in the work programme is reflected in a shift in priorities among the subprogrammes from the original subprogramme 1, Securing effective international arrangements and agreements relating to transnational corporations, to subprogrammes 2 and 3, which have been modified and proposed as high priority designation. Because of the extensive revisions to the narrative, programme 23 is submitted below in its entirety.

4. Owing to the calendar of meetings of the Commission on Transnational Corporations, the proposed revised programme has not been reviewed by that Commission.

PROGRAMME 23. TRANSNATIONAL CORPORATIONS

A. Programme

1. General orientation

23.1 The legislative authority for the programme on transnational corporations derives from Economic and Social Council resolution 1913 (LVII) of 5 December 1974, which formulated the basic mandate of the Commission on Transnational Corporations, and is further elaborated and modified by subsequent resolutions and decisions of the General Assembly and the Economic and Social Council, particularly in its resolution 1994/1. The programme is aimed at:

(a) Furthering understanding of the nature and the legal, economic, social and environmental effects of the activities of transnational corporations in home and host countries and in international relations;

(b) Enhancing the contribution of international investment and transnational corporations to national development and world economic growth;

(c) Strengthening the capacity of host countries, in particular the developing countries, in their dealings with transnational corporations and in creating an enabling environment for international investment and for private sector and enterprise development.

23.2 Transnational corporations are important actors in the world economy. They invest across countries and in so doing mobilize the capital, skills and technology required to meet growth and development needs world wide. Many innovations originate within large firms and most are applied, commercialized and disseminated by them. Moreover, a growing share of international trade takes place within or among firms. Transnational corporations are therefore at the centre of the interplay between investment, technology, services, trade and finance. They can play a key role in attempts by the international community to promote growth in the developing countries.

23.3 In the 1960s and 1970s, the activities of transnational corporations were seen as a threat or potential threat to sovereignty and throughout the developing world there was much scepticism about the benefits of foreign direct investment. In the early 1980s, the advantages of non-debt-creating finance for development became more apparent and there was a more mixed assessment of the advantages and disadvantages of foreign direct investment. This is reflected in the new approaches being taken in the formulation of national and international policies on foreign direct investment, which combine measures and policies aimed at facilitating flows of foreign investment in nearly all sectors and activities, under conditions that enhance the contribution of those investments to the national economy.

23.4 The rapid expansion of international investment since the mid-1980s has encouraged many countries, particularly developing countries, to liberalize further their investment regimes and to consider related policies and measures to create a more enabling environment for private sector and enterprise development. At the international level, there has been progress in the elaboration of supportive multilateral arrangements. Whether binding or voluntary, multilateral arrangements can contribute to the sustained improvement of relations between host countries and transnational corporations.

23.5 The world-wide distribution of foreign direct investment and the activities of transnational corporations are uneven. The least developed countries in particular have been bypassed by transnational corporations. There will be continuing need for appropriate policies and measures, including those instituted by home country Governments, and for international action to enhance the contribution of foreign investment and transnational corporations in the least developed countries.

23.6 Transnational corporations are frequently the repositories of scarce technical skills needed for the preservation of the environment and for the conduct of activities in sectors that have an impact on the environment. In the context of Agenda 21, there is a need to analyse the activities of transnational corporations, to identify ways in which developing countries in particular might benefit from the experience of developed countries and to encourage private sector initiatives in their efforts to protect the environment in relation to the industrial activities of transnational corporations.

2. Overall strategy

23.7 As stated in Economic and Social Council resolution 1980/60 of 24 July 1980 and following the restructuring of the Secretariat in the economic and social fields endorsed by the General Assembly in its resolution 47/212 B, the activities of programme 23 were integrated into UNCTAD. The Division on Transnational Corporations and Investment of UNCTAD, which is now the central unit in the United Nations system for work on matters related to transnational corporations, carries out its tasks by a variety of means, including:

(a) Provision of substantive services to related intergovernmental bodies, primarily the Commission on Transnational Corporations;

(b) Preparation of background documents and specialized studies;

(c) Dissemination of information;

(d) Organization of seminars, workshops and conferences;

(e) Provision of technical cooperation to Governments.

23.8 The programme will be implemented through UNCTAD and its joint units with the regional commissions. Each joint unit will, within the overall programme of work adopted by the Commission on Transnational Corporations and the Economic and Social Council, be the focal point for the activities of UNCTAD in its

respective region, especially in the fields of research, information and liaison with the Governments of the region. In the area of research, the joint units conduct case-studies in the countries of their region and provide inputs for global studies prepared by UNCTAD. In the area of information, the joint units assist in the collection of information on the countries of their regions, including information on individual transnational corporations. A close cooperative arrangement between UNCTAD and the joint units will be further strengthened, enhancing the programming and implementation of advisory and training projects, including the organization of training workshops, identification of specific requirements for advisory missions and follow-up to missions completed.

23.9 While the Economic and Social Council has emphasized the role of the Commission on Transnational Corporations and UNCTAD as the focal points within the United Nations system for issues related specifically to transnational corporations, the activities of those corporations, by their very nature, affect a multitude of social, economic, legal and environmental issues that are dealt with to a varying extent by other organizations and bodies of the United Nations and the system as a whole. In addition to close cooperation with United Nations entities, particularly the Department for Economic and Social Information and Policy Analysis, the Department for Policy Coordination and Sustainable Development, the Department for Development Support and Management Services and UNEP, there is also active coordination with FAO, ILO, WHO, UNIDO, GATT, IMF, the World Bank, OECD and the Commonwealth Secretariat. In the area of technical cooperation, UNCTAD seeks the collaboration and contribution of the regional commissions in the four developing regions. UNCTAD will also continue to work with organizations of the international business community and the international trade union movement.

3. Subprogramme structure and priorities

23.10 The programme on transnational corporations will consist of the following subprogrammes:

Subprogramme 1. Policies, measures and arrangements relating to international investment and transnational corporations

Subprogramme 2. Enhancing the contribution of international investment and transnational corporations to development

Subprogramme 3. Strengthening the capacity of developing countries in dealing with matters related to transnational corporations and in creating an enabling environment for international investment and enterprise development

23.11 Subprogrammes 2 and 3 are designated high priority.

B. Subprogrammes

SUBPROGRAMME 1. POLICIES, MEASURES AND ARRANGEMENTS RELATING TO INTERNATIONAL INVESTMENT AND TRANSNATIONAL CORPORATIONS

(a) Objectives

23.12 The legislative authority for the subprogramme derives from General Assembly resolution 45/186 and Economic and Social Council resolutions 1989/25, 1991/55, 1992/35, 1992/36, 1993/49 and 1994/1.

23.13 The growing significance of the role of transnational corporations in the world economy and recognition of the contribution that firms can make to development have increased the importance of policies, measures and arrangements for facilitating the flow of international investment, especially to developing countries. Policies are needed to enhance positive economic linkages between transnational corporations and developing countries and their private sectors; improving national foreign direct investment regimes; harmonizing definitions and regulatory processes; and facilitating the effective integration of countries in transition into the international economic system.

23.14 Recent events in the financial world, particularly the rapid expansion of international capital markets and the proliferation of new complex financial instruments, have increased the information needs of users of financial statements of transnational corporations. At the same time, the lack of comparability and transparency of financial statements inhibits the free movement of capital in an efficient market system. This is a particularly important issue for foreign direct investment in developing countries and countries in transition to market economies.

23.15 More specifically, the objectives of subprogramme 1 are:

(a) To promote measures to enhance further the flow of international investment, especially to developing countries;

(b) To promote the harmonization of reporting systems on foreign direct investment statistics and related variables, and to assist countries in the harmonization of reporting requirements in that respect;

(c) To improve the information disclosure by transnational corporations through the harmonization of diverse national accounting and reporting practices and by providing policy advice to countries in the process of standard setting.

(b) Course of action of the secretariat

23.16 The UNCTAD secretariat will analyse laws and regulations relating to foreign investment, including bilateral, regional and multilateral arrangements, with a view to identifying measures to enhance further the flow of international investment, especially to developing countries, and its contribution to national development and world economic growth. It will promote the exchange of country and regional experiences in attracting foreign investment through the preparation of country reports, the dissemination of information and the

organization of seminars and round tables, involving the participation of the private sector. Differences in national reporting systems on foreign investment will be examined, with a view to encouraging Governments to work towards their harmonization.

23.17 The UNCTAD secretariat will examine the role, impact and responsibilities of firms as they relate to the environment and the implementation of Agenda 21, and will disseminate information on international guidelines, standards and best practices relating to environmental, industrial safety and other concerns arising from the increased transnationalization of economic activity.

23.18 The Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting has made important recommendations on a broad range of issues regarding disclosure in financial statements. It will continue to review international accounting standards and their applicability to national standard setting with a view to encouraging greater harmonization of accounting and reporting standards and to meeting the needs of users of financial information, focusing on more comprehensive reporting and environmental accounting. There will also be a need to examine ways in which a positive contribution can be made in assisting national standard setting, particularly in developing countries and in countries in transition, and to assist in programmes to educate, train and qualify accountants and auditors in those countries. Follow-up activities related to the agreement on illicit payments, and any other arrangements completed during the period, will be undertaken as mandated.

SUBPROGRAMME 2. ENHANCING THE CONTRIBUTION OF INTERNATIONAL INVESTMENT AND TRANSNATIONAL CORPORATIONS TO DEVELOPMENT

(a) Objectives

23.19 The legislative authority for the subprogramme derives from Economic and Social Council resolutions 1989/21 to 1989/23, 1989/25, 1989/26, 1989/28, 1990/71, 1991/55, 1992/35, 1993/49 and 1994/1.

23.20 Foreign direct investment grew consistently during the 1970s and 1980s and is likely to expand further during the 1990s. Developing countries will have high potential to attract foreign investment, given the reforms under way and if economic growth is maintained. Recent policy changes in the countries in transition to market economies will also increase the flow of foreign investment to and from them. However, technological change and the rapidly changing map of regional integration will create new challenges and opportunities for both Governments and corporations.

23.21 Transnational corporations respond to opportunities arising from technological innovation and market forces. New technologies are emerging and spreading at a fast pace, changing the economics of production. Developing countries will need to build a capacity to generate and utilize new technologies if they are to maintain or acquire international competitiveness in existing export industries and penetrate new markets. At the same time, being at the centre of technological change, transnational corporations can contribute to national strategies for technology diffusion, by applying, commercializing and disseminating the new technologies in developing countries.

23.22 The growth and interdependence of transnational business also creates a need for international attention to environmental issues that affect business and government interests throughout the world. A number of serious incidents involving chemicals, dumping of toxic wastes and radioactive material, including nuclear wastes, and oil spills have warned the world community that risks from deficient environmental or safety standards are not just a local but also a regional and even a global problem. A challenge for government administrators and business officials is to design policies and strategies that allow continued growth while maintaining an effective level of environmental safety.

23.23 There will also be a need for mechanisms that channel foreign direct investment into priority areas of national investment programmes, encourage indigenous enterprises, ensure the introduction of environmental standards and protect host countries against transfer pricing abuses. The introduction of such mechanisms requires a consistent policy environment that enhances the overall contribution of transnational corporations to development. Actions by developing countries would need to be complemented by policies and mechanisms aimed at improving the quality and quantity of investment flows. Actions for an accelerated transfer of investment capital, technology and managerial know-how to developing countries constitute crucial elements of an international action programme for development in the 1990s.

23.24 Consequently subprogramme 2 will aim:

(a) To facilitate mutually beneficial linkages between transnational corporations and developing countries;

(b) To strengthen intergovernmental cooperation in the area of foreign direct investment and the operations of transnational corporations, with a view to enhancing their contribution to economic development and growth;

(c) To further the understanding of the nature and role of transnational corporations by analysing (i) trends in the activities of transnational corporations and their impact on world development; (ii) the impact and implications of the activities of transnational corporations on host countries, in particular developing countries, as concerns economic, environmental, social and cultural issues; (iii) capital inflows and outflows, trade and transfer of technology through the impact and implications of transnational corporations on the world economy; (iv) the effectiveness of existing national policies; (v) the role and impact of transnational corporations in major sectors; (vi) the effectiveness of contracts and agreements between host country entities and transnational corporations; and (vii) organizational structures, operational forms and strategies of transnational corporations;

(d) To provide policy recommendations and assist host countries, in particular developing countries and countries in transition from central planning to a market economy, in attracting and maintaining an increased flow of capital, technology skills and entrepreneurship.

(b) Course of action of the secretariat

23.25 The UNCTAD secretariat will undertake research and analysis in the following areas:

(a) The role of transnational corporations in production, processing and export in selected domestic economies and major sectors;

(b) An annual analysis, in the form of a world investment report, of the principal issues relating to transnational corporations;

(c) Aspects of the economic, environmental, social and cultural impact of transnational corporations;

(d) The role of transnational corporations in (i) international financial transfers and balance of payments; (ii) international trade, including intra-firm transactions; (iii) transfer of technology; and (iv) service industries, including data services;

(e) Surveys of foreign direct investment flows and stocks world wide, desegregated by sector, by country and by corporation;

(f) Information on individual corporations;

(g) Changing patterns of transnational corporation arrangements, including non-equity arrangements, joint ventures and licensing agreements;

(h) Changing patterns of transnational corporation structures, organization and modes of operation;

(i) Changing patterns in the size, characteristics and country composition of transnational corporations;

(j) Changing patterns in corporate alliances across national borders and their impact on competition;

(k) The impact of foreign direct investment and transnational corporation activities on the global economy and linkages with other macroeconomic factors.

23.26 The UNCTAD secretariat will also undertake research and studies on:

(a) The impact of national and international policies on foreign direct investment and transnational corporation behaviour and the effectiveness of laws and regulations in that area;

(b) The changing patterns of contracts and agreements in various sectors;

(c) Environmental risk management;

(d) The effect of the economic integration of countries in transition to market economies on the global economy;

(e) The role and impact of multilateral, regional and bilateral agreements and arrangements on foreign direct investment and transnational corporations;

(f) New and alternative forms of international economic cooperation;

(g) The role and impact of home country policies in encouraging foreign direct investment flows towards developing countries;

(h) The role of free economic zones in attracting foreign direct investment;

(i) The role and impact of international standards in transnational corporation/host country relations;

(j) Progressive elaboration of international standards for the collection of data on foreign direct investment and transnational corporations, and harmonization of national standards and norms in that area;

(k) Development of methodologies and concepts to facilitate harmonization.

23.27 Further, UNCTAD will organize seminars, conferences and other meetings in different regions aimed at disseminating the findings of its research and analysis, and will examine ways of translating those findings into intergovernmental and governmental policies and measures.

SUBPROGRAMME 3. STRENGTHENING THE CAPACITY OF DEVELOPING COUNTRIES IN DEALING WITH MATTERS RELATED TO TRANSNATIONAL CORPORATIONS AND IN CREATING AN ENABLING ENVIRONMENT FOR INTERNATIONAL INVESTMENT AND ENTERPRISE DEVELOPMENT

(a) Objectives

23.28 The legislative authority for the subprogramme derives from Economic and Social Council resolutions 1990/71, 1992/35, 1992/36, 1993/49 and 1994/1, and decision 180 (LXI), subparagraph (b).

23.29 The 1980s experienced a substantial change in the relationship between host developing countries and transnational corporations. Confrontation has given way to more pragmatic attitudes based on a recognition by both parties that there can be a mutuality of interest across broad areas of economic activity. That trend is most dramatically reflected in the new "open door" policies of several countries in Africa. Equally significant is the change being effected in the economies of countries in transition, which were previously not open to foreign investment. Host countries will continue to need expertise during the 1990s with respect to the structuring of appropriate foreign investment regimes and fair and equitable joint venture arrangements. Countries that have traditionally welcomed foreign investment have also shifted to more liberalized policies, partly because transnational bank debt is no longer an option for securing capital from abroad. Those countries face the task of streamlining their administrative mechanisms not only for rapidly and effectively evaluating, screening and approving foreign investment applications, but also for promoting foreign investment and identifying appropriate

prospective joint venture partners. At the same time, those countries will presumably wish to ensure that the transnational corporations meet certain performance requirements. A key challenge in the 1990s, therefore, is to devise foreign investment policies that appropriately balance facilitation and regulation.

23.30 These developments are occurring in the context of rapid technological advances and intensified competition between countries and between transnational corporations that have contributed to a growing globalization of the world economy. Developing countries therefore need to forge flexible and innovative policies in the 1990s that give them continuous access to such technological advances and enhance their share in investment and world economic activity.

23.31 Small and medium-sized enterprises are important investors. Typical features of small firms, such as creativity, innovation, flexibility and special skills associated with small-scale management, are particularly important for the development process. To attract them, many host countries recognize the need to create an effective enabling environment and actively to promote cooperation between domestic and foreign small and medium-sized enterprises.

23.32 The objectives of subprogramme 3 are:

(a) To facilitate the flow of adequate and appropriate foreign investment and technology transfer to host developing countries;

(b) To maximize the contribution of contractual arrangements with transnational corporations in host developing countries;

(c) To enhance the capability of public and private sector officials of host developing countries in negotiating with transnational corporations;

(d) To establish and strengthen developing country competitiveness and capacities to identify, collect and analyse information on foreign investments, technology transfer and transnational corporations;

(e) To enhance the capability of small and medium-sized enterprises in developing countries in their dealings with transnational corporations.

(b) Course of action of the secretariat

23.33 The UNCTAD secretariat will provide advisory, training and information services in the following areas:

(a) Examination of policy options related to transnational corporations either at the overall level, in specific sectors or in connection with specific issues such as ownership and control, acquisition of technology, fiscal and financial questions and transfer pricing, free economic zones and privatization;

(b) Formulation or revision of laws and regulations related to the activities of transnational corporations either in general or in specific sectors (e.g. natural resources), or on specific issues (e.g. transfer pricing);

(c) Elaborating or strengthening evaluation, screening and monitoring guidelines for projects involving equity or non-equity participation of transnational corporations, as well as developing or strengthening relevant governmental infrastructure, procedures and information and promotion systems;

(d) Evaluation, within the context of specific projects, of the alternative merits of various types of contractual arrangements such as joint ventures, licensing, management contracts and production sharing agreements;

(e) Legal, financial, economic and operational issues related to specific contractual arrangements with transnational corporations, in the natural resources, manufacturing or service sectors;

(f) Substantive support in the preparation for negotiations;

(g) Organization and conduct of training workshops, seminars, round tables and study tours on matters related to international investment and transnational corporations;

(h) Developing or strengthening national information systems related to international investment and transnational corporations;

(i) Collection and dissemination of information on laws and regulations, individual transnational corporations, contracts and arrangements, and other data sources;

(j) Preparation of responses to requests from Governments for information on matters related to international and transnational corporations;

(k) Establishing interdisciplinary programmes of training on matters related to transnational corporations by institutions of higher learning of developing countries;

(l) Establishing a public and private sector infrastructure for developing small and medium-sized enterprises and assisting them in establishing beneficial links with transnational corporations.